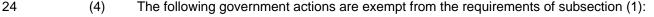
68th Legislature 2023 LC 0757

_ BILL NO. _____ 1 2 **INTRODUCED BY** (Primary Sponsor) 3 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO REGULATORY TAKINGS AND 5 REAL PROPERTY: PROVIDING FOR A GOVERNMENT TAKING IF RESULTING IN A DIMINUTION OF 6 VALUE: PROVIDING EXEMPTIONS: PROVIDING GOVERNMENT ENTITIES WITH THE BURDEN TO 7 PROVE AN EXEMPTION: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE." 8 9 10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA: 11 12 NEW SECTION. Section 1. Real property -- regulatory takings. (1) Except as provided in 13 subsection (3), if the existing rights to possess, use, modify, develop, sell, or otherwise freely transfer real 14 property are affected by any action of a government entity and that action results in taking or damaging the 15 property by diminishing its fair market value by at least 25%, the owner of that property is entitled to just 16 compensation from the government entity responsible for the action. 17 (2)An action that diminishes the fair market value of real property by at least 25% constitutes a presumption and prima facie evidence of a regulatory taking compensable under Article II, section 29, of the 18 19 Montana constitution. 20 (3)This section does not limit a government entity's ability to waive or issue variances from the 21 government entity's action as applied to the affected property. A government entity that chooses not to take 22 action that would result in taking or damaging private real property is not liable for paying compensation under



- (a) actions of a government entity that:
- (i) were taken before [the effective date of this act];
- (ii) limit or prohibit the use of real property previously recognized as a private or public nuisance;
- 28 (iii) are required by federal law;



this section.

23

25

26

27

LC 757

Unofficial Draft Copy

68th Legislature 2023 LC 0757

1	(iv)	establish locations for utility facilities; and	
2	(v)	are taken in response to a real and substantial threat to public health and safety that:	
3	(A)	can be verified to address the real and substantial threat; and	
4	(B)	do not impose a greater burden than is necessary to address the real and substantial threat.	
5	(b)	a government entity's formal exercise of eminent domain against real property only;	
6	(c)	a proposed seizure of property by law enforcement officials as evidence or under a state	
7	forfeiture statut	e or a proposed forfeiture of property during or as a result of criminal proceedings;	
8	(d)	the repeal of an action of a government entity; and	
9	(e)	actions taken through the citizen-initiated zoning process.	
10	(5)	The government entity responsible for the action has the burden of demonstrating that the	
11	action is exemp	t pursuant to the provisions of subsection (4).	
12	(6)	In order to be protected under subsection (1), the real property must be owned by the claimant	
13	at the time of th	e government action for which a taking is being claimed. In the case of a business interest, the	
14	business must	nave been authorized by law and must have been the owner or holder of the private real	
15	property at the time of the government action for which a regulatory taking is being claimed.		
16			
17	NEW S	ECTION. Section 2. Effective date. [This act] is effective on passage and approval.	
18			
19	NEW S	ECTION. Section 3. Codification instruction. [Section 1] is intended to be codified as an	
20	integral part of	Fitle 70, and the provisions of Title 70 apply to [section 1].	
21			
22	NEW S	ECTION. Section 4. Applicability. [This act] applies to government actions involving	
23	regulatory takir	gs related to real property that are initiated on or after [the effective date of this act].	
24		- END -	

